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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/126,194    07/30/98    VANDERMINDEN

W    75700/225

EXAMINER

PM82/0807

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,  
OLSTEIN  
SIX BECKER FARM FOAD  
ROSELAND NJ 07068

AVERY, B  
ART UNIT

PAPER NUMBER

3618  
DATE MAILED:

08/07/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/126,194**

Applicant(s)  
**Vanderminde, William M.**

Examiner  
**Bridget Avery**

Art Unit  
**3618**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 10, 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 23, and 24 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Feb 7, 2000 is: a) ☐ approved b) ☒ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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1. Note, as per paper No. 17, the corrected or substitute drawings were received on February 7, 2000. These drawings remain informal for improper margins. See for instance Figures 3-4.
2. The request for reconsideration filed by applicant on May 10, 2001 is acknowledged.

### **DETAILED ACTION**

#### ***Specification***

- 800  
8/6/01
3. The ~~abstract of the~~ disclosure is objected to because reference character "31" has been used to designate both the U-shaped edge and a leg. Note, applicant should check the specification to ensure that reference numbers are not used to describe more than one element, and to ensure that reference numbers are consistent with the elements described in the drawings. Correction is required. See MPEP § 608.01(b).

**Applicant's attention is directed to the specification, page 8, lines 1 and 18.**

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation "said leg frames" in line 4. There is insufficient antecedent basis for this limitation in the claim. **It is suggested that applicant amend the claim to read -- said pair of leg frames--.**

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrah (US Patent 1,087,878).

Harrah discloses a collapsible wheeled tray a rectangular skeletal body frame (20, 21, 12, 13); a pair of leg frames (1, 2), each leg frame being releasably connected (see releasable nuts in figure 1) to the body frame (20, 21, 12, 13) at an opposite side from the other leg frame to support the body frame (20, 21, 12, 13) on a support surface; and, a table top (19) releasably connected to (via the box-shaped body frame) and across the leg frames (1, 2) in vertically spaced

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relation to the body frame (20, 21, 12, 13). Note, the rectangular box-shaped skeletal structure is shown in figures 1 and 2.

The connecting means integrated in the body frame is shown at (21), and in the leg frames (1, 2), at the hole to receive frame portions (12, 13). See figure 1.

9. Claims 1-3 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Berthier et al. (US Patent 4,236,462).

Berthier et al. discloses a folding trolley including a skeletal body frame (6); a pair of leg frames (1, 2), each leg frame (1, 2) being releasably connected (see figure 5) to the body frame (6) at an opposite side from the other leg frame to support the body frame (6) on a support surface; a table top (7) releasably connected to and across the leg frames (1, 2) in vertically spaced relation to the body frame (6); and, a horizontally disposed floor plate (8) removably mounted in the body frame (6) to provide a shelf.

10. Claims 1-3 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Holtz (US Patent 3,215,096).

Holtz discloses a serving cart including a skeletal body frame (20); a pair of leg frames (10, 12), each leg frame (10, 12) being releasably connected (see figure 2) to the body frame (20) at an opposite side from the other leg frame to support the body frame (20) on a support surface; a table top (18) releasably connected to and across the leg frames (10, 12) in vertically spaced

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relation to the body frame (20); a horizontally disposed floor plate (56) removably mounted in the body frame (20) to provide a shelf; and wheels (16) on the leg frames. Note, as broadly claimed, the device teaches a body frame (20) having a “rectangular” box-shaped skeletal structure.

11. Claims 1, 2, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by McClellan (US Patent 3,295,475).

McClellan discloses a knock down table including a skeletal body frame (24); a pair of leg frames (42, 43), each leg frame (42, 43) being releasably connected (see figure 1) to the body frame (24) at an opposite side from the other leg frame to support the body frame (24) on a support surface; a table top (20) releasably connected to and across the leg frames (42, 43) in vertically spaced relation to the body frame (24); a pair of vertically disposed spacers (34) on the body frame (24), a vertical plate (48) at each side of the leg frames (42, 43); and, each leg frame (42, 43) has a pair of horizontal outwardly disposed arms and the table top rests on the arms.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berthier et al. ('462) in view of Carille (US Patent 4,865,346).

Berthier et al. discloses the cart described above.

Berthier fails to show a pair of guides to define a recess to receive a cooler.

Carille discloses a collapsible cart including a shelf having apertures and locking means on two opposite sides of the shelf that define a recess within the top and bottom sides of the shelf to receive the legs of a cooler therein.

Based on the teachings of Carille, it would have been obvious to one having ordinary skill in the art to modify the floor plate of Berthier to include a means of securing a cooler therein to facilitate ease in serving iced tea.

14. Claims 5, 6, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtz ('096).

Holtz discloses the claimed invention except for leg frames including a plate and vertical slots. It would have been obvious to one having ordinary skill in the art at the time of the

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applicant's invention was made to include a plate and vertical slots since the examiner takes Official Notice of the equivalence of the claimed plate with slots and the disclosed clips for their use in the connection art and the selection of any of these known equivalents to provide a releasable connection would be within the level of ordinary skill in the art.

15. Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtz ('096) in view of Carille ('346).

Holtz discloses the serving cart described above.

Holtz fails to show a pair of guides to define a recess to receive a cooler.

Carille discloses a collapsible cart including a shelf having apertures and locking means on two opposite sides of the shelf that define a recess within the top and bottom sides of the shelf to receive the legs of a cooler therein.

Based on the teachings of Carille, it would have been obvious to one having ordinary skill in the art to modify the floor plate of Holtz to include a means of securing a cooler therein to facilitate ease in serving iced tea.

16. Claims 7, 11, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtz ('096) in view of Burnett (US Patent 3,099,356).

Holtz discloses the features described above.

Holtz fails to show a leg frames having outwardly disposed arms.



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Burnett discloses a folding serving cart having a similar structure as Holtz. The cart of Burnett including leg frames (4, 5, 6, 7) having outwardly disposed arms (15, 16) and a table top (2) resting on the arms (15, 16).

Based on the teachings of Burnett, it would have been obvious to one having ordinary skill in the art, to modify the cart of Holtz to include outwardly disposed arms on the leg frames upon which the table top rest to further support the table top. With respect to claim 11, it would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to make one arm longer than another, since a mere change in size would be considered within the level of one of ordinary skill in the art. See In re Rose, 105 USPQ 237.

17. Claims 5, 10, 11, 15-17, 19, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClellan ('475).

With respect to claims 5, 10, 17 and 19, McClellan discloses the claimed invention except for leg frames including a plate with a pair of vertical slots. It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to include a plate and vertical slots since the examiner takes Official Notice of the equivalence of the claimed plate with a pair of slots and the disclosed plate with large single slot for their use in the connection art and the selection of any of these known equivalents to provide a releasable connection would be within the level of ordinary skill in the art. With respect to claims 15, 16 and 24, McClellan discloses the claimed invention except for a second pair of rectangular frames. It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to provide a second pair of rectangular frames, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. See *In re Harza*, 124 USPQ 378.

18. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClellan ('475) in view of Hamilton (US Patent 2,886,186).

McClellan discloses the features described above.

McClellan fails to show a pair of wheels.

Hamilton shows a serving cart having wheels.

Based on the teachings of Hamilton, it would be obvious to one having ordinary skill in the art, at the time of the applicant's invention to modify the cart of McClellan to include wheels for mobility.

19. Claims 9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClellan ('475) in view of Fuller (US Patent 5,308,012).

McClellan discloses the features described above.

McClellan fails to show a fabric strip.

Fuller discloses a hand truck having a fabric strip (40) disposed about the holder (28).

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Based on the teachings of Fuller, it would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to modify the cart of McClellan to include a fabric strip for aesthetic purposes.

*Allowable Subject Matter*

20. Claim 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

21. Claims 8, 12 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

22. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to show a table top including a peripheral edge of U-shaped cross-section slidably receiving an end of each arm of a leg frame, in combination with the rest of the claimed structure.

*Response to Arguments*

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23. Applicant's arguments filed 5/10/01 have been fully considered but they are not persuasive. The references relied upon for rejection reasonably disclose the features of the applicant's claimed invention. With respect to applicant's argument regarding claim 5, the applicant's claimed "vertical plates" are functionally equivalent to the clips disclosed by Holtz. The clips of Holtz could easily be exchanged for vertical clips to engage the bracing rods (22, 24).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

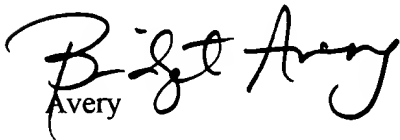
24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

25. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number (703) 308-2086.

  
Avery

August 1, 2001

  
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8/1/01